

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AGERE SYSTEMS, INC., ET AL.,	:	
	:	CIVIL ACTION
Plaintiffs,	:	
	:	
v.	:	
	:	
ADVANCED ENVIRONMENTAL	:	NO. 02-3830
TECHNOLOGY CORPORATION, ET AL.,	:	
	:	
Defendants.	:	

ORDER

And now, this 20th day of May 2008, upon consideration of defendant Handy & Harman Tube Company's Motion to Strike Plaintiffs' Supplemental Response to Joint Contention Interrogatory No. 123 (Doc. No. 302) and plaintiffs' response (Doc. No. 319), it is ORDERED that the motion is DENIED.

This Court's January 11, 2008 Order granting in part and denying in part plaintiffs' leave to file a fifth amended complaint specifically denied plaintiffs leave to add Smiths Group Services Corporation and Smiths Group North America Incorporated (collectively referred to as "Smiths") as plaintiffs. An underlying reason for this denial was that any claims by these entities would be time barred because there was no relation back pursuant to Federal Rule of Civil Procedure 15(c).

However, Smiths are alleged to be indemnitors of named plaintiff TI Group Automotive Systems, L.L.C. ("TI"). Information regarding this relationship is relevant to this lawsuit. Thus, Handy & Harman's contention that plaintiffs are attempting to "support the very claims that this Court has barred" is unpersuasive.

Plaintiffs' February 8, 2008, supplemental response to Interrogatory No. 123 was not in violation of Federal Rule of Civil Procedure 26(e). When plaintiffs initially responded to Interrogatory No. 123, they chose to provide defendants with information relevant to the subject matter of the interrogatory even though their answer to the interrogatory was essentially "no". (Def.'s Mot, Ex. F, page 86-87.) As such, plaintiffs were under no obligation to provide the information, and therefore, their supplemental response was likewise unnecessary.

The plaintiffs' supplemental response was not in contravention to any of this Court's orders. Moreover , there is no indication that plaintiffs were acting deceitfully or engaging in gamesmanship.

For all of the above reasons, Handy & Harman Tube Company's Motion to Strike Plaintiffs' Supplemental Response to Joint Contention Interrogatory No. 123 (Doc. No. 302) is DENIED.

BY THE COURT:

/S/LEGROME D. DAVIS

Legrome D. Davis, J.